G. R. S. IX-5]

Previous references

File No. 195-20

1920.

(Cto.)

Serial Nos. 1-4.

Later references

Preserve
M/
17.1.43

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Four.

Part B for July 1921.

SUBJECT.

Memorial of Kala & Eight Others undergoing Sentence of transportation for life in the Bangalore Central Jail.

---

814) To The Registrar, Chief Court.
No. J. 69 of 6.7.21.
Forward copy of order passed by H.H. the Sachivaru on the Convicts' memorial commuting the Sentence of transportation to one of rigorous imprisonment for seven years
No. J. 70 of 6.7.21.
Forward copy of the above to the J. C. J.

M/

WD 788—GIPB—5,000—7-11-19.

For Disposal by Circulation.)

No. C. 673.

.....1920-21

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Memorial of convicts Nos. 6312-6320, Kala and 8 others of the Bangalore Central Jail, undergoing the sentence of transportation for life.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

Offg *Chief Secretary to Government:*

.....3rd..June.....1921..

Extraordinary Member of Council. Opinion recorded.

45-2-76
3.6.1921

First Member of Council. Opinion recorded
6.6.21

Second Member of Council. Opinion recorded.

9/6/76
12/6/21

Third Member of Council.

Submitted to 2nd Member for final note.

Final Note signed by the Members
put up 17/6/21

G. R. S. 11) 1920-21

GENERAL AND REVENUE SECRETARIAT.

(Cts)

NOTES.

File No. 195-20

FILE HEADING.

Memorial of Convicts nos 6312-6320, Kala and 8 others of the Bangalore Central Jail.

From

The I.G. of Prisons

No. 468 Dated 22-3-21 Received 26-3-21

Diary No. 20199	Enclos. 1 File Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

pursuant the memorial of Convicts nos 6312-6320, ~~to~~ Kala and 8 others of the Bangalore Central Jail for mercy.

NOTES AND ORDERS.

Submd. All the prisoners have been sentenced to transportation for life on a charge of murder by the Sessions Judge, Mysore and the sentence has been confirmed by the Chief Court. The memorialists

General and Revenue Secretariat. | CS File No. 196 of 1920.

Serial No.

say that they had absolutely no motive in murdering Ramaseshi. Draft to the Registrar, calling for records is put up. for orders.

Pss
28/3/21

2) J. Rice
D.M.
31/3

To

2. The Registrar, Chief Court.
No. G. 18619 dt 5-4-21.
Calls for the records of the Mysore Sessions Case no. 13 of 19-20.

RECEIVED
14 APR 1921

11/4

To

3 The Registrar, Chief Court.
No. 950 dt 19-4-21.
Forwards the entire records in Mysore Sessions case no. 13 of 1919-20 on the file of the ~~Mysore~~ Sessions Judge, Mysore Division & those in Cr. appeal no. 1 of 1919-20 on the file of the Chief Court.

3) Subs for orders.
21.

NOTE.—Contn. sheet.

G. R. S. III-2.

General and Revenue Secretariat. | C5 File No. 195 of 1920-21

Serial No.

× Accused 2 & 8, and accused nos: 13 & 18

1) The petrs were charged, tried & convicted for the murder of one Banno chetty in Chamarajanagar taluq in July 1919 & were sentenced to transportation for life in Mysore Sessions Case no 13 of 19-20.

In Crim Appeal no: 1 of 1920-21 the Chief Court upheld the convictn & sentences of the petrs & dismissed their appeals.

And hence the present memorials on the ground that the sentences are unduly severe

It has been established by the prosecn evidence that the petrs brutally murdered the deceased man who was innocent & unarmed. The Sessions Judge was of opinion that there was no intention of murder & therefore sentenced the petrs to transportation for life.

I am respectfully invited to the following remarks of the Judges of the Chief Court in para 29 of their J/Mem.

"The sentences are appropriate & no argument was addressed to

NOTE—Contn. sheet.

Serial No.

to us against them."

2) The finding of the trial Ch was pronounced on 12-8-1920 & the present memorial has been sent after an interval of nearly six months.

3) The sentences do not seem to be severe & the memorial does not seem to call for any consideration & may perhaps be rejected

P. M.
C9/5.

6586/20.5.21

Rejected 1) 19.5.21
2nd Member

P. M.
20/5

11) The appellants being the headmen of 7 villages that were involved in connection with the Bandirippo case - On the night of the 15th July 1915, there was a fight between the tenants and owners of the gardens lying on both banks of the river Kuruvanavali in course of which one Sanna Chetty received several injuries and lost his life - Of the 27 persons, convicted, put up appeal to Court of Sessions to trial to answer charges of rioting, previous unlawful assembly, & murder, & were acquitted and the trial

NOTE—Contn. sheet.

G. R. S. III-2)

General and Revenue Secretariat.

C/5 File No. 195 of 1912021

Serial No.

was committed. Of these two unfortunate
have been sentenced to two years' rigorous
imprisonment in the Central Jail Bhagalpur
upon the deceased Jamna Mally and
caused injuries whereof she died
in the Hospital. The wife of the accused has
been sentenced to various terms of
imprisonment. The immediate cause
of the quarrel was the fact that the wife of
the accused had used the word "rascal"
& "bitch" towards the neighbouring land-owner
whose employ the accused was. According to the
accused, the deceased had raised the
agreed rent by Rs 2 per bigha & the accused
& other ryots refused to pay the enhanced
rent & the accused's wife used the words
complained of. The Sessions Judge has
found that the accused had no premeditated
intention of causing the death of the
deceased & that the blow struck by the
accused was struck in the heat of passion
upon a sudden quarrel & without taking
undue advantage & in a cruel or unusual manner.
He has therefore convicted the accused
of culpable homicide not amounting to
murder & has sentenced him to two years'
rigorous imprisonment. The only question
is whether the accused had exceeded the
right of private defence of property
which he undoubtedly had. The Sessions
Judge has found that the accused had
a right to defend the property from
trespass & that the deceased was a
trespasser. The accused was entitled to
use such force as was necessary for the
purpose of defending the property but
he was not entitled to use more force
than was necessary for that purpose.
The Sessions Judge has found that the
accused used more force than was necessary
& that he exceeded his right of private
defence of property. The question
whether the accused had exceeded his
right of private defence of property
is a question of fact & not of law.
There is no evidence on the record
which would justify this Court in
holding that the finding of the Sessions
Judge is wrong. The accused has been
found guilty of culpable homicide

NOTE—Contn. sheet.

G. R. S. III-2j

22195.

General and Revenue Secretariat. | File No. 695 of 1921

Serial No.

DEWAN'S OFFICE.
Recd. on MAY 25 1921
Reg. No. 7316

Council matter

NOTE—Contn. sheet.

G. R. S. III-2)

General and Revenue Secretariat.

CS File No. 195 of 1924

Serial No.

I do agree in the view expressed by the Secretary.

Dec
6.6.24

I agree, too.

Dec
6.6.

NOTE—Contn. sheet.

22199

G. R. S. III-21

General and Revenue Secretariat.

Ch File No. 195 of 1920-21

Serial No.

DEWAN'S OFFICE.
Recd. on JUN 18 1921
Reg. No. 7813

17) Subd write a D.S.N.-

Dewan)

hm
17.6.21.

NOTE—Contn. sheet.

Final Note by the Second Member of Council.

Subject:-

Memorial of convicts Nos. 6312-6320, Kala and 8 others of the Bangalore Central Jail, undergoing the sentence of transportation for life.

---

16 The memorialists belong to the batch of prisoners that were convicted in connection with the Budithitoo case. On the night of the 15th July 1919, there was a fight between the tenants and owners of the gardens lying on both banks of the river Suvarnavati in course of which one Sanna Chetty received severe injuries and lost his life. Of the 27 persons put up before the court of Sessions for trial on charges of rioting, grievous hurt and murder, 10 were acquitted and the rest were convicted. Of these the memorialists have been sentenced to transportation for life on the ground that they took part in the assault upon the deceased Sanna Chetty and caused injuries to him which resulted in his death. The rest of the accused have been sentenced to various terms of imprisonment. The immediate cause of the quarrel was the fact that the gardens of the accused 1 and 8 used to be raided at nights and they suspected the neighbouring garden owners and tenants as the persons responsible for the same. Accordingly the accused 1 and 8 organised a counter raid for the purpose of retaliation in course of which they met some of their enemies with the result that a free fight ensued between them with fatal consequences to Sanna Chetty as stated above. It is admitted that there was no intention to kill on the part of any of the accused, nor is there any evidence to show which of the accused gave the fatal blow which resulted in the death of Sanna Chetty. Properly speaking the accused should have been held guilty of culpable homicide not amounting to murder, but on account of certain decisions the courts could not but hold them guilty of murder. Technically speaking the courts are right, but taking the facts of the case as a whole

it

it seems to me that substantially the offence committed is that of culpable homicide not amounting to murder. I would therefore commute the sentence of transportation to one of rigorous imprisonment for a period of seven years. The Kannagal rioting case was certainly a more serious case than this and yet the heaviest sentence awarded was one of seven years rigorous imprisonment.

Pages 6 & 7 of office Notes

12. The Dewan and the other Members of Council agree to the above recommendation which may be graciously approved.

Member of Council.

Camp) Mysore,
16th June 1921

Submitted to His Highness.

To I submit herewith a Final Note by the Second Member of Council on the memorial of Convicts Nos.6312-6320, Kala and eight others of the Bangalore Central Jail undergoing the sentence of transportation for life, for His Highness' gracious approval.

19th June 1921

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Memorial of Kala and eight others undergoing sentence of transportation for life in the Bangalore Central Jail.

29)

1281

Order.

~~KRW~~

24/6/21

Keep by

26.6.21.

C 673

G. R. S. III-2]

General and Revenue Secretariat. | File No. | of 19

Serial No.

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to the Members of Council for perusal of His Highness' orders ~~before~~ after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

28/6

Chief Secretary to Govt.

Through the Secretary to Government,
Revenue Department.

226-226
11.7.21

FIRST MEMBER OF COUNCIL
12.7.21

193
8.7.21

SECOND MEMBER OF COUNCIL

THIRD MEMBER OF COUNCIL.

ISSUE & RESUBM

Please issue orders in this circulate
28/6

NOTE—Contn. sheet.

28/6

G. R. S. III-2)

22197

General and Revenue Secretariat.

C5 File No. 195 of 1921

Serial No.

25) Submitted with 2 Drafts

(1)
(2)

29/6/21 26) Drafts & Fair are submd for favour of appl & signatures.

D Mahadevan
A Dewan 1/7

DEWAN'S OFFICE.
Recd. on 1 JUL 2 1921
Reg. No. 38

27) Drafts appd. & fair signed by Dewan
3/7

28) Issues
D M 7

29) To the Registrar Ch court
No. 69 Dt 6.7.1921
Forwards copies & order passed by H.H. the Maharaja on the convicts' memorials commuting the sentence & transportation to one & rigorous imprisonment for seven years

To the S.P. & Prisons
No. 70 Dt 6-7-1921
Forwards copies & the above.

29/ Submitted with reference to para 21 supra
7/7

30) For favour of circulation
D M
7

C.B

NOTE—Contn. sheet.

By Order,

Secretary to Government,

eral and Revenue Departments.

39 Returned after Clu.
of H.H. orders to Members
of Council

M

2/21

G. R. S. III-2]

2299

General and Revenue Secretariat.

C5 File No. 195 of 19 20-21

Serial No.

37. Circulation Completed

~~Record of Chief Ch. may be kept~~

D. M. 13/7

CH.

13 JUL 1921

B

NOTE—Contn. sheet.

20109

17

Pris. 3]

No. 468/30-21 Gne. one File. OFFICE OF THE INSPTR.-GEN. OF PRISONS IN MYSORE, 196-Co.

Dated Bangalore 22nd March 21. 1921

FROM

H. B. Mylvaganam, F.R.C.S., (Eng).

Inspector-General of Prisons

in Mysore, Bangalore

To

B. Ramaswamaiya Esqr., B.A., B.L.,

Secretary to the Government of H. H. the

Maharaja of Mysore, Revenue Department,

SIR, Bangalore.

I have the honor to forward herewith for favour of transmission to His Highness the Maharaja of Mysore, the Memorial to-gether with its enclosures of prisoners Nos. 6312- to 6320 Kala and 8 others, which was received through the Superintendent Bangalore Central Jail.

I have the honor to be,

Sir,

Your most obedient servant,

H.B. Mylvaganam

Offg. Inspector-General of Prisons

GPB—306—29-5-1

67552

From

The Insptr.-Gen. of Prisons

in Mysore, Bangalore.

To

The Secretary to the Government
of H.H. the Maharaja of
Mysore
Revenue Department

Dated 22nd } March 1921
Despatched 24th }

Received

GEN & REV. SEC.
Ch. Sect.
24 MAR 1921

General No. 468
No. 30-21

Enclosure No. one File.

Forwards for favor of transmission to His Highness the Maharaja of Mysore the memorial with its enclosures of prisoners NOS. 6312 to 6320 received through the Superintendent Bangalore Central Jail

J
P
26/3

Pay 25
26/3

26 MAR 1921

Form No. 37]

Nominal Roll of Male* Convict No.† 6320 Name Baroodah Residence Saragur —
(Village, Taluk and District) Bhamarajnagar Taluk, Mysore District.
Caste Muhammadan Present age 48 Years Occupation Agriculture

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sections 302, 326 & 149 I. P. C.	Transportation for life — 17.6.20	Sessions judge, Mysore. Mysore sessions case No: 13 of 19.20	19	2	6		Sentence confirmed on appeal in criminal appeal No: 1 of 20-21. by the Court of Sessions	Good	

* Strike out and add, "Female" when necessary.
† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.
‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.
Note.—For personal and descriptive marks——see reverse.

Mysore Central Jail.
14 — 1 — 1921.

Superintendent.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Form No. 37]

Nominal Roll of Male* Convict No.† 6919 Name Mahamedsab Residence Sarager
(Village, Taluk and District) Shamarajanagar Taluk. Mysore District.
Caste Musalman Present age 29 Years Occupation Agriculture.

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sections 302, 324 & 148 I.P.C.	Transportation for life 17.6.1920.	Sessions judge, Mysore. Mysore sessions case No: 13 of 19-20	19	2	6		Sentence confirmed on appeal in Criminal Ap. 107 of 1920-21 by the Chief Court of Mysore	Good	

* Strike out and add, "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.

Note.—For personal and descriptive marks——see reverse.

Bangalore Central Jail.
.....1921.

Superintendent.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Ag — ag
Ah B. C. gaol.

Form No. 37]

Nominal Roll of Male* Convict No.† 6318. Name Wahabsab Residence - Sangur
(Village, Taluk and District) - Channajanagar Taluk, Mysore District.
Caste Muslaman Present age 51 - Years Occupation Agriculture.

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sections 302 & 148 I. P. C.	Transported for life. 17.6.21.	Sessions judge, Mysore - Mysore sessions case no: 13 of 1919-20.	19	2	6		Sentence confirmed on appeal in appeal no: 10 of 21 by the High Court of Mysore.	good	

* Strike out and add, "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.

Note.—For personal and descriptive marks——see reverse.

Bangalore Central Jail.
.....1921.

Superintendent.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Ag B.C.Gaol

Form No. 37]

Nominal Roll of Male* Convict No.† 6317 Name Seera Residence Sarapur Mule.
(Village, Taluk and District) Chamarajanagar Taluk, Mysore District
Caste Parivara, Present age 28. Years Occupation Agriculture.

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
See Sec 302, 326 & 148 I.P.C.	Transportation for life. 17.6.1920	Sessions judge, Mysore — Mysore sessions case no: 13 of 1919-20.	19	2	6		Sentence confirmed on appeal in Criminal appeal no: 1 of 20-21 by the Hon'ble High Court of Mysore.	good.	

* Strike out and add, "Female" when necessary.
† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.
‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.
Note.—For personal and descriptive marks——see reverse.

Bangalore Central Jail.
.....1921.

Superintendent.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Age 28 yrs. Ht. 5' 6" Chest 33½"
Marks: Nil
I.M. 1 Nil

Form No. 37]

Nominal Roll of Male* Convict No.† 6316. Name Puttabasava Residence Sarajur Mole
(Village, Taluk and District) Hebbaravajanapar Taluk, Mysore District.
Caste Panivara — Present age 36 Years — Occupation Agriculture

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Section 302 324 & 148 I.P.C.	Transportation for life. 17-6-1920	Sessions judge, Mysore. Mysore sessions case No: 12 of 1919-20. C	19	2	6		Sentence confirmed on appeal by the Chief Court of Mysore in Criminal Appeal No: 1 of 1920-21	Good.	

* Strike out and add, "Female" when necessary.
† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.
‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.
Note.—For personal and descriptive marks——see reverse.

Bangalore Central Jail.
.....1921.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Superintendent.
A.C. gaol

Form No. 37]

Nominal Roll of Male* Convict No.† 6315 Name Mada — Residence Saragur male;
(Village, Taluk and District) Chamarajanagar Taluk, Mysore District.
Caste Parivara — Present age .Years 36. Occupation Agriculture —

WD 0195—GPB—600—10-1-19.

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sections 302, 324 & 148 I. P. C.	Transportation for life. 17.6.1920.	The sessions Judge, Mysore Division Mysore — Mysore sessions case no: 13 of 19-20.	19	2	6		Sentence confirmed on appeal by the Chief Court of Mysore in Criminal Appeal no: 1 of 1920-21.	Good.	

* Strike out and add, "Female" when necessary.
† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.
‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.
Note.—For personal and descriptive marks——see reverse.

Bangalore Central Jail.
.....1921.

Superintendent.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Form No. 37]

Nominal Roll of Male* Convict No.† 6314 Name Rama Residence Saragur Hole,
(Village, Taluk and District) Chamarajanagar Taluk, Mysore District
Caste Parivara - Present age 21 - Years — Occupation Agriculture.

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sections 302 & 148 I.P.C.	Transportation for life. 17.6.1920.	Sessions judge, Mysore Division Mysore. Mysore sessions case No: 19 of 19.20	19	2	6		Sentence confirmed on appeal by the chief court of Mysore in criminal appeal No: 1 of 1920-21	good	

* Strike out and add, "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.

Note.—For personal and descriptive marks——see reverse.

Bangalore Central Jail.
.....1921.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Superintendent.

S. C. gaol

Form No. 37]

Nominal Roll of Male* Convict No.† 6313 Name Lenkari Residence Saragur Hole,
(Village, Taluk and District) Saragur Hole, Chamaraja nagar Taluk, Mysore District.
Caste Pariyar - Present age 33. Years Occupation Agriculture.

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
302, 326 & 148 I.P.C.	Transportation for life. 17.6.1920	Sessions judge, Mysore Division, Mysore. Mysore sessions case No. 13 of 19.20	19	2	6		Sentence confirmed on appeal by the High Court of Mysore in Criminal appeal No. 1 of 20.21	Good	

* Strike out and add, "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.

Note.—For personal and descriptive marks——see reverse.

Bangalore Central Jail.
.....1921

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Superintendent.
B.C. jail

Form No. 37]

Nominal Roll of Male* Convict No.† 6312. Name Kala. Residence Nagavalli,
(Village, Taluk and District) Chamarajanagar Taluk, Mysore District.
Caste Parivar Present age 37. Years Occupation Agriculture.

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
302, 326 & 148 I.P.C.	Transportation for life. 17.6.1920.	The sessions judge, Mysore Division, Mysore. Mysore sessions Case No: 13 of 1920	19	2.	6		Sentence confirmed on appeal by the High Court of Mysore in criminal appeal No: 1 of 1920-21.	good.	

* Strike out and add, "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.

Note.—For personal and descriptive marks——see reverse.

Bangalore Central Jail.
.....1921..

Superintendent.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

C.E. and B.C. jail

TO,

HIS HIGHNESS THE MAHARAJA OF MYSORE.

The humble memorial of Kala 1, Sunkare 2, Rama 3, Mada 4, Puttubasva 5, Seera 6, Wahab Sabi 7, Muhammed Sabi 8, Babu Sabi 9, now in the Central Jail, Bangalore undergoing sentence of transportation for life.

MOST RESPECTFULLY SHOWETH:-

1. That there was no reason for the memorialists to entertain any ill-feeling against the Budithittu people.
2. That on the contrary Budithittu people had reason to include the memorialists as assailants; for the latter had succeeded in getting four rich gardens & lands on the Western side of the Suvarnavati, having taken possession of the gardens on the eastern side of the said river.
3. That there is no evidence to show that memorialists were harassed by the Budithittu people, but, on the contrary, their evidence shows that some of the memorialists allowed their cattle to graze in Budithittu people's gardens and caused annoyance and loss to them.
4. That only two witnesses speak about the application on the part of the 7th. memorialist and another, for Kempan Thota. They contradict each other, one stating that application was made previous to the transfer and the other stating that the application was made after the transfer. That an application was made for Kempan Thota is absolutely false.
5. That Doddapadige Thota people belonging to Budithittu admit that they had not come in contact with the Sargur people and that the memorialists had no ill-feeling whatever towards the deceased Sanna.

6. That it is therefore most unlikely that the memorialists would have run after him and beaten him to death, when he did not offer resistance.

7. That the Honourable Chief Court has failed to take into consideration a very important point; viz, that, although there had been an arrangement between the deceased and P.W.6 that in case thieves (not the memorialists) attacked, they should render mutual help, although the Doddapadige people had just returned from patrol of their garden with clubs in their hands, although they heard loud cries of deep distress "Ayoyo, Appa" and although they had reason to believe thieves were attacking Kempan Thota people, they ran shouting "We are coming, we are coming", having got rid of all their clubs.

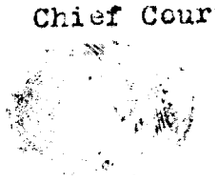
8. That P.W's 2, 3 & 4 are brothers of the deceased, and P.W.5 is their servant. They all swear that the width of the opening was only one cubit and that the tallest & biggest man stood in front and the rest behind him and that the assailants were at a distance of 60 feet. Though there was moonlight, it was impossible for the witnesses to identify them.

9. That as regards the defence of the 1st & 2nd. Memorialists, the first appellant, their father, an old man, could not have driven two carts without their aid.

10. That the memorialists who were in a garden adjacent to Kempan Thota and who knew the secrets of the neighbouring garden, would not have housed P.W's 6, 7 & 8 by throwing brick-bats etc.

For the foregoing reasons, Your Highness's Humble Memorialists pray that your Highness will be graciously pleased to remit the unwarranted and severe sentence passed against them by the Sessions Judge, Mysore, and confirmed by the Chief Court.

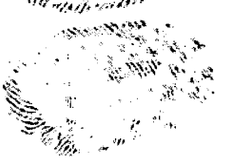
Left thumb mark of Madra



Left thumb

mark of Kala

Puttabasawa

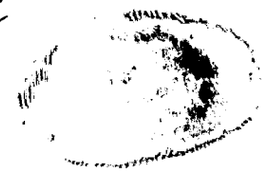


Sunkara

Seera

Rama

Left thumb mark
of Mohamed Sabi



Left thumb mark of
Baba Sabi

Marked & Signed
before me.
Chief Jailor
25/2/21 C. C. Jail.

Marked and signed before me.

Chief jailor.
25/2/21 C. C. jail.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Thursday, the 12th day of August 1920.

Present.

Sir LESLIE C. MILLER, Kt., O.B.E., Chief Judge,

and

Mr. Justice R. B. P L U M E R.

Petition of Criminal Appeal No. 1 of 1920 -21 against the conviction and sentence by the Sessions Judge of Mysore Division, under Section 148, Indian Penal Code, in the case of 1st, 9th, 14th and 16th appellants, Section 148 and 326, Indian Penal Code, in the cases of 10th, 11th, 13th and 17th appellants, sections 148 and 302, Indian Penal Code, in the cases of 4th 6th and 8th appellants, sections 148, ~~326~~ 324 and 302, Indian Penal Code, inthe cases of 5th and 12th appellants, and sections 148, 326 and 302, Indian Penal Code, in the cases of 2nd, 3rd, 7th and 15th appellants, in ~~Mysore Sessions~~ Case No. 13 of 1919-20.

APPELLANTS.

1. Boyi Seruvagar
2. Kala
3. Sunkari
4. Rama
5. Mada
6. PuttaBasava
7. Seera
8. Wahab Sabi
9. Rudan Sabi
10. Peer Sabi
11. Ummar Sabi
12. Mahamad Sabi
13. Hyder Sheriff
14. Syed Mohadeen
15. Pavoo Sabi
16. Pama
17. Seeba

(Accused Nos. 1 to 11, 13 to 15 18. 24 and 26)

JUDGMENT

J U D G M E N T

The appellants are seventeen out of twenty seven persons who were charged before the Sessions Judge of Lysore with offences of rioting, murder, causing grievous hurt and causing hurt. Ten were acquitted and the appellants have been convicted, all of rioting, eight, that is, appellants 2, 3, 7, 10, 11, 13, 15 and 17 of causing grievous hurt, two appellants Nos. 5 and 12, of causing hurt, and nine, appellants Nos. 2, 3, 4, 5, 6. 7, 8, 12 and 15, of murder.

2. The occurrence took place, it is stated in the patel's report, about one o' clock in the morning of the 16th of July 1919.

The second paragraph of the Sessions Judge's judgment sets out the case for the prosecution as to the origin and the course of this occurrence, and it need not be repeated here. The Sessions Judge has in that paragraph made a mistake as to the points of the compass, putting the Saragur village on the western side and the Tudithittu village on the eastern side of the Suvarnavati river, whereas the fact is the contrary. In other respect the narrative is sufficiently accurate.

3. The case for the defence as presented to us is that the deceased Janna and the injured persons Renga, Sanjiva and Gurubasava, must have gone to steal today from some date trees lying to the westward of their gardens, and were attacked by the watchers of the date trees, driven away and severely beaten, and that the

the prosecution witnesses not liking to admit the real cause of the attack, have made up the case against the villagers of Saragur.

It may be said at once that there is no evidence to support this and the 15th witness for the prosecution, who is not shewn to be untrustworthy, contradicts it: and the circumstances from which we are asked to conclude that it is a probable explanation of the occurrence do not impress us at all, and certainly do not outweigh the great improbability that the witnesses ~~xx~~ who were very severely handled, have preferred to make a false charge against the accused, ~~xxkxx~~ rather than to attempt to secure the punishment of their real assailants. Even if they were not prepared to admit their own attempt to steal toddy it would have been aseasy to frame a story of attempt to steal cocoanuts from their gardens and an ensuing fight, as to make up the story now told against entirely innocent persons. We may reject that theory without hesitation.

4. On the other hand there is nothing so improbable in the account of the matter given in the evidence as to suggest that the attack was not made substantially as alleged. It is true that there is not much to shew why the ill-feeling between the Saragur and Budithittu cocoanut growers should have culminated in an attack on this particular night, but there is enough to shew that the Budithittu gardeners were likely to be ~~xxxx~~ harassing their rivals from Saragur who had crossed the river to take up land

on

on the western side and had succeeded in one case and failed in another in ousting Budithittu men from gardens which they had previously held. The causes of ill-feeling were there, and we are unable to reject the prosecution case on the suggested ground of its improbability. And it is likely that an attack if made would be made in considerable force. There is nothing to support the suggestion that the Saragur people knew that they were likely to have to deal with only three men in Kempanatota, or might not have expected others to come to their aid, and there is nothing to prevent us from accepting the evidence that a body of 20 or 30 men took part in the adventure.

5. We are unable to agree with the Sessions Judge that the riot took a course very much as described by the witnesses for the prosecution; their account explains in a reasonable manner how Sanna came to be in the garden, Survey No. 168, where he met his death, though it was not his garden, and there does not seem to be any reason to question the general truth of the narrative.

6. The only difficulty in the case is the identification of the offenders, and this the Sessions Judge has recognised, and has acquitted all those, ten in number, in whose cases he found the identification doubtful.

7. In considering the evidence against each of the accused persons the Sessions Judge does not refer to the statements of the 11th, 12th, 13th and 14th witnesses for the prosecution, though elsewhere he states his belief in their evidence. These persons are called to

shew

shew that a number of persons were gathered together to make on attack on the gardens in Budithittu to punish thieves, and they say that they were asked to join and went some way with the others and then came away home. If ~~xxxx~~ their evidence is believed it would go in corroboration of the statements of the eye-witnesses to the occurrence in respect of particular persons whom they as well as the eye-witnesses profess to have recognised, but the evidence is of doubtful value and it is probably unsafe to rely on it

The witnesses Putta, Dodda Hada and Rama are Uppaligars of Saragur or Saragurmole and it may be doubted whether they would have been called in by the Parivars and Muhammadans to help them, when there was apparently no lack of recruits from their own communities. Putta says that there are factions' one formed by Uppaligars and another by Parivars with one of the accused (who was acquitted) at their head: and their statements shew that they were suspected and for a time kept in custody by the police in respect of this occurrence, and they may have agreed to give evidence against their fellow villagers as a means of escaping inclusion among the accused persons. Their evidence may be disregarded. The 14th witness is a muhammadan and he too by his own account was kept in custody for a day on suspicion. His evidence too may perhaps be disregarded.

8. Against the appellants 1 - 11 we have the fact that all were named in the patel's report made on the morning of the 15th of July, and we can find

no

no support for the suggestion that the patel and shanbogue have instigated the complainants to include these persons in their complaint. The patel denied the suggestion and it does not appear to have been made to the shanbogue, and there is nothing in the cross-examination of either witness to suggest that they have taken any part in the matter beyond reporting what was told them.

9. There is uncontradicted evidence that there was bright moon light at the time of the attack and there was nothing to impede the view of the witnesses who came from the Doddapadage gardens (the 2nd, 3rd, 4th and 5th witnesses for the prosecution), and saw the attack on Sanna. Near the shed in Kempanatota where the 6th, 7th and 8th witnesses for the prosecution were injured there are according to the Amildar two cocoanut trees and a mango tree, but it is not shewn that they or any of them actually cast a shadow over the manchiga or platform on which two of the witnesses were seated when attacked, or that there was anything to prevent them from seeing persons who came into the shed in which the manchiga stood.. There is no difficulty therefore, on the score of want of light, in accepting the evidence of identification if it is otherwise credible.

10. Nor do we think there is any weight in the suggestion that three or four persons together could not have seen what happened from the gap where the 2nd, 3rd, 4th and 5th witnesses for the prosecution, say they saw the attack on Sanna. The width of the opening is given by the Amildar as only about 1½ feet but he says

that

that two persons could stand abreast in it. and if so, two more could no doubt see what happened also, standing close behind them.

11. No arrests were made before the 23rd of July, and this it is suggested goes in support of the defence of certain of the appellants who allege that they were not in Saragur on the 15th of July. But the evidence applies also to persons who have not alleged absence from the village and does not appear to be of much importance.

12. At the risk of some repitition it may be desirable to examine the evidence in the case of each of the appellants singly.

13. The first appellant Boyi Seruvegar is one of the persons who occupy the garden, Survey No. 172, having taken it from Ijjappa (the 16th witness for the prosecution) by offering a higher rent than the former occupant Gurukara Sidda, who is the father of the 8th witness for the prosecution. He is for this reason likely to have been privy to the attack, and also it may be said is likely to have been included among the accused whether he was present or not.

His presence is not mentioned by the 2nd. 3rd, 4th and 5th witnesses for the prosecution who speak to the attack on Sanna: he is identified only by the 6th, 7th and 8th witnesses for the prosecution, as having been present at Kempanatota. His name appears in the patel's report but as he is not mentioned by the 2nd witness for the prosecution who went for the patel, it is probable that it was supplied by

one

one of the witnesses who were attacked in the Kempanatota garden. None of these witnesses say that he did anything in particular; he was according to them, one of those who surrounded the shed. The Sessions Judge thinks there is no possibility of a mistake in identification, and no doubt the 2nd, 3rd, 4th and 5th witnesses for the prosecution had very good opportunities of seeing the persons who were beating Sanna, but the Kempanatota witnesses were suddenly roused from sleep in their shed and found a number of persons throwing brickbats and clods of earth at them; they were seized and dragged out of the shed, and beaten and bound, and it is not so clear that they would have been able to recognize more of the attacking party than those who actually took part in the assault upon themselves - though no doubt when dragged out they could have seen others had they been in a position to observe them calmly and without interruption. They knew the first appellant well, but he is their enemy and though he is a person who is likely to have been as a party to the raid, it may not be safe to act on their evidence against him, unsupported by the Doddapadage witnesses

His defence is that on that night he was at Bailur in the Coimbatore District, and so far as he is concerned it is supported by some prima facie substantial evidence. The Sessions Judge considers that the evidence is fabricated with the help of the witness Sultan Sheriff (the 5th witness for the defence) and that is possible, but Sultan Emir Sheriff is interested

if

if at all, only in the 16th accused Bapu Sab, and not so far as is shewn in the first appellant. And the monegar of Bailur is not interested, though it may be that he has been induced to give false evidence. The weak point in the alibi is the fact that it was not put forward at the earliest opportunity when the first appellant was examined by the committing magistrate: it was first announced in a written statement presented some weeks later. and this undoubtedly goes to discredit the defence. Exhibits D_6 and D_7 may may be fabricated but there seems to be no very good reason to suspect them, and on the whole it seems safer to accept the alibi in the case of the first appellant seeing that though there are weak points in it the prosecution evidence is not very strong in this particular case. Against it no doubt is the statement of Ranga Setti (the 6th witness for the prosecution) that on Sunday (13th July) this appellant with his partner (8th appellant) was complaining of thefts in his garden, and it may be doubted if he could have reached Bailur by the 15th if that is true; but that may not be true: it comes from an interested witness, unsupported.

14. Against the second appellant Kala there is very good evidence: he was seen by the Doddapadage witnesses as well as the witnesses at Kempnanatota when he beat Sanjiva Setty and his name was given to the patel. His defence is the same as that of the first appellant but in his case there is no documentary support, and the monegar and Sultan Sheriff may have been induced to include him among the persons

who accompanied the first appellant to Bailur. It is not likely that either of them had any very vivid recollections of those persons. His conviction is right.

15. Against the third appellant Gunkari there is also strong evidence. He is accused of beating Sanna and by Ranga Setti of beating him at Kempanatota: and his defence of alibi is very weakly supported and was not relied on in argument before us.

16. The fourth appellant Rama was seen by the Doddapadage witnesses as well as at Kempanatota. He also puts forward an alibi, at Bailur, but the evidence in support is the same as that in the case of the second appellant and cannot be accepted.

17. The fifth appellant Mada is identified by Gurubasava as having dragged him from the shed and tied his hands and by the witnesses from Doddapadage gardens. There is no evidence on his behalf.

18. The sixth appellant Puttabasava is also among those seen to attack Sanna, and is mentioned by Ranga Setti as carrying a spear at Kempanatota. Exhibit D_{10} shows that he was at Chamarajanagar in the magistrate's court on the 15th of July 1919, but he had plenty of time after court hours to get back to Garagur before midnight. The court clerk (the ninth witness for the defence) says the case was called about 4 P.M. and Exhibit D10 shews that there was nothing done in the trial that day.

19. The seventh appellant Sira is charged by Ranga Setti with beating him and is among the assailants of Sanna. Exhibit D_{10} does not support his case as it shews that he did not appear in the court: he has not proved that he was too ill to go there.

20. The eighth appellant is not only mentioned as among the crowd at Kempanatota but is identified by the witnesses from Doddapadage gardens as being one of the assailants of Sanna. His alibi was not argued before us and the Sessions Judge observes that it was not supported by the witnesses cited on his behalf the 7th and 8th witnesses for the defence. They say that the persons referred to in Exhibit D_9 were not the accused Nos. 8, 12 and 15.

21. The ninth appellant, Budan Sabi, is identified as one of the assailants of Sanna by Raka Setti and Sidda Setti, but not by Mara Setti (the fifth witness for the prosecution) or according to the recorded deposition by Mada Setti (the third witness for the prosecution). The Sessions Judge does not convict him of murder but only of the offence committed at Kempanatota, but the only evidence of his presence there is that he was one of the rioters; he is not said to have done any particular act. The Sessions Judge does not say why he doubts the identification by Raka Setti and Sidda Setti; but probably he thought there might be mistakes where all the witnesses do not agree. Raka Setti and Sidda Setti say that he was among those who were striking Sanna, but the

Sessions

Sessions Judge acquits him of that offence, and we must ~~ka~~ take it that his presence in that garden was not proved to the satisfaction of the Sessions Judge. If he was not there we have only the evidence of the 6th, 7th and 8th witnesses for the prosecution against him and they do not state any particular circumstance which drew their attention to him; but his name was given to the patel next morning and it is not shewn that he is one of those whom the witnesses would be likely to include falsely. It will be safe in these circumstances to accept the evidence against him. There is no evidence on his behalf.

22. The tenth appellant Pir Sabi is not convicted of murder and the evidence against him is that of the Kempanatota witnesses only: but he is said by Ranga Setti to have beaten him and threatened him and there is no reason to disbelieve this. He calls no witnesses in his ~~ka~~ behalf.

23. The 11th appellant Ummar Sabi is also not one of the accused who has been convicted of murder, but Sanjiva Setti (the eighth witness for the prosecution) says that he dragged him from the shed at Kempanatota and he is therefore well identified. His name was given to the patel. He has no evidence.

24. The 12th appellant Mahomed Sabi is the 13th accused in the Sessions Court. He is one of those identified by the 2nd, 3rd, 4th and 5th witnesses for the prosecution, and by Gurubasava as having beaten him. His defence is that if he was absent at Hasanur

but

but as observed in the case of the eighth appellant, that defence is not proved.

25. The 13th appellant, Hyder Sheriff, is the 14th accused: he has not been convicted of murder, but was identified by Sanjiva Setti as having struck him. He is not among those whose names were given to the patel: the witnesses say they did not know his name though they knew him by sight. He defence is an alibi and he is supported by the 1st and 2nd witnesses for the defence. Like the alibi of the first appellant it was not put forward at the first opportunity. The witnesses are relations of the accused Nos: 14 and 16 both of whom make the same defence, and there was ample time to concoct with their assistance the defence now put forward. It may not be safe to act unreservedly on the evidence of Mr. Nelson as to the Kollegal post mark on Exhibit but no doubt it is not very difficult to secure an antedated post mark, and Exhibit D_5 is worthless as evidence. The Sessions Judge's opinion as to this alibi may be accepted.

26. The 15th appellant Babu Sab is the 18th accused: he has been convicted of murder on the testimony of the 2nd, 3rd, 4th and 5th witnesses for the prosecution, and of causing hurt to Ranga Setti who says that he dragged him by the hair. There is no evidence on his behalf.

27. The 16th appellant Rama is the 24th accused. he has been convicted of rioting only. He is the

brother

brother of the first appellant and he was not named in the ~~patel~~ patel's report. The evidence against him is only that he was among the rioters at ~~Kempa~~ Kempanatota, and no particular act of violence or mischeif is alleged against him. He is also one of the rival tenants occupying according to Ranga Setti the gardenof Krishnappa. It may be safe to acquit him in the state of the evidence.

28. The 17th appellant Seeba is the 26th accused. He has been convicted of causing grievous hurt to Sanjiva Setti. The evidence against him is sufficient and there is none on his behalf.

29. The sentences are appropriate and no argument was addressed to us against them.

In the result the appeals of all the appellants except Nos. 1. Boyi Seruvegar and 16. Rama are dismissed. The convictions and sentences on Nos. 1 and 16 are set aside and they may be set at liberty.

Sd/- Leslie C. Miller,
CHIEF JUDGE.

Sd/- R. E. P l u m e r,
J U D G E.

" C o p y "

For REGISTRAR.

T.G.

In the Court of Sessions, Myaore Division.

Dated, Myaore, 17th June 1920.

PRESENT

D.[illegible]A, Esq., Barrister-at-Law,

Sessions Judge.

Myaore Sessions Case No. 13 of 1919-20.

Complainant.	Accused.	
Government of Myaore.	1. Doyi Periyanna.	Rioting. accd convicted
	2. [illegible]	Rt Grievous Hurt accd convicted
	3. [illegible].	Hurt convicted.
	4. [illegible].	rioting — convicted
	5. [illegible].	do. Hurt and rioting convicted.
	6. Puttabeeova.	rioting. convicted
	7. [illegible].	Rt Grievous Hurt convicted
	8. [illegible].	Rioting convicted
	9. [illegible].	Rioting convicted
	10. [illegible].	Rioting convicted
	11. [illegible].	Rt Grievous Hurt convicted
	12. [illegible].	acquitted
	13. [illegible].	Hurt & rioting Conv
	14. [illegible].	Rt Grievous Hurt convicted
	15. [illegible].	Rioting convicted
	16. [illegible].	acquitted
	17. [illegible].	acquitted
	18. [illegible].	Rt Grievous Hurt convicted
	19. [illegible].	acquitted
	20. [illegible].	acquitted
	21. [illegible].	acquitted
	22. [illegible].	acquitted
	23. [illegible].	acquitted
	24. [illegible].	Rioting convicted.
	25. [illegible].	acquitted
	26. [illegible].	Rt & Hurt convicted
	27. [illegible].	acquitted.

JUDGMENT

The prisoners Nos. 1 to 27 are indicted for rioting armed with deadly weapons - an offence punishable under section 148, I.P.C. - and prisoners Nos. 1 to 13, 16 and 18 are indicted for murder for having caused the death of [illegible] etti in the prosecution of [illegible] object; all the prisoners are indicted for grievous hurt for [illegible] committed by prisoners

Nos. 2, 3, 7, 10, 14, and 26 and the prisoners Nos. 5, 12, 13, and 27 are indicted for hurt. All those offences are committed on the night of 15th or in the early hours of 16th July 1919 at Pudithittoo gardens, Vaimaranjanagar Taluk.

2. The story for the prosecution in briefly as follows:-

The prisoners are the residents of Eeragur Dole and the important witnesses for the prosecution are the residents of Pudithittoo. (Vide - 4 Hon'ble Mr. Bernard)

3 The genesis of the dispute between the parties is attributed to the greed and jealousy on the part of each to obtain possession as lessees of rich cocoanut gardens situated on the eastern side of Cuvernavati River that runs from North to South.

The prisoners Nos. 1, 6, 7, 10, 11, and 26 and the other residents of Eeragur were the tenants of gardens lying to the west of Cuvernavati and the residents of Pudithittoo were the tenants of gardens on the eastern side of that river. Latterly the prisoners Nos. 1 & 6 obtained possession of the gardens of Parameswaran, Kuthamman and Ijjappa which are on the eastern side of the river as lessees. They raised the rental of Ijjappa's garden from 120/- rupees to 150/- rupees and secured its lease for a fixed period about 2 years ago. This garden was in the possession of Gurukkal Sidan, the father of Ranjeeva Pottl (P.W.8) for upwards of 30 years. The former tenants were thus ousted. This naturally gave rise to bitter animosity between the sons of Gurukkal Sidan and the prisoners Nos. 1 and 6. After securing these gardens the prisoners Nos. 1 and 6 began to annoy and terrorize their neighbours with a view to compel them to give up their tenancy. One Ande Pottl (P.W. 17) who was a tenant of Veerane Dole

Kempona Thota, had to give up his tenancy in favour of Banga Cotti (P.W.6) and Anchu the brother of Curubeeva (P.W.7), owing to frequency of thefts in the garden

5 The prisoners Nos. 1 and 8 competed unsuccessfully with Ramasamy and Anchu in this matter. The residents of Suddithittoo showed their determination to secure gardens in the neighbourhood of Kempona thota in spite of the competition of the prisoners Nos. 1 and 8 and their friends. Ponjeeva Cetti son of Durukanna Pidda, competed with the 24th prisoner and obtained Krishnappa's garden.

6 Owing to the frequency of thefts in those gardens, each party was accusing the other. A few days before the occurrence, the prisoners Nos. 1 and 8 complained of theft in their garden and suspected Banga Cetti and others. Some of the prisoners are Parivara and others are Mohammedans. The prisoners who are Parivara are related to each other and so are Mohammedan prisoners.

7 All these prisoners formed themselves into an unlawful assembly, with a view to cause grievous hurt to Banga Cetty, Ponjeeva Cotti and Curubeeva who were sleeping in the shed erected in Kempinthota garden, to terrorise these tenants and to commit mischief to their coconut gardens. On the night of the 15th July 1913, the prisoners armed with clubs and sharp instruments, proceeded to the garden and surrounded the shed, threw brick-bats and clods of earth into the shed, dragged the inmates out, struck them severely and finally stripped them of their coats etc. and tied their hands with coconut fibres and carried after placing some coconut bunches.

Anchu Cotti, his brothers Pidda Cotti, Penna Cetti and Kada Cotti and his servant Ramasetti, were watching the coconut garden called Koddeyadige which was leased to Anchu Cotti for 2000 rupees [illegible]. Pidda Cotti, Ramasetti and

and Ernno Cotti were watching the eastern portion of the garden while Pacha Cotti and Sadu Cotti were watching the western portion on the night of the 15th July 1919. When they had returned after patrolling, Aidu Cotti, Marcotti and Ignno Cotti heard the distressing cries of "Aiyo, Aiyo" proceeding from the direction of Kempanthota. They immediately started in that direction evidently to give succour to the sufferers, after giving signal to Pacha Cotti and Sadu Cotti to follow them. When Ernno Cotti who was going in advance, neared the bund near Muguruvara Hole, he was surrounded by 10 or 15 persons. He went to that Hole and was severely beaten by prisoners Nos. 2 to 15, 18 and 19, who were armed with clubs and sharp instruments. Aidu Cotti and Marcotti ran back to give information to Pacha Cotti and Sadu Cotti who were following the advance party and who met Aidu Cotti and Marcotti a few yards off the scene and learnt the fact and more. Then they all went to the scene of occurrence and saw to their horror Ernno Cotti being severely dealt with by the prisoners. These prisoners evidently left their corridor in Kempanthota after hearing that some watchmen were coming to rescue their victims and started in advance to terrorize and prevent the rescuers from going to Kempanthota. Machasetty and others were in a terrible state of excitement and were powerless to prevent the beating as they were small in number and were besides unarmed. Pachamotti suddenly called out "Come, Come" and thereby intimating to the assailants that there were many more persons coming behind to attack them. After hearing these shouts, the assailants departed, leaving Annamotti, Mahamotti, his brother Aidamotti and his servants approached Ernno Cotti and found him lying unconscious with severe injuries all over his body. When they heard lamentations they went to Kempanthota leaving Aidu Cotti to attend on Annamotti. They found Ranga,

Anjaya

Ranjeeva and Gurubasava in a miserable plight with their hands tied and having injuries on their person. They were unable to speak. There were bunches of cocanuts lying on the floor. The prisoners had by that time departed. They returned to Bugura-vare Hola where Somasetti was lying. They removed him and laid him on a blanket and attended on him. Early morning of the 16th July 1919, Lachmaiah went to the Patel and complained to him about the matter. The Patel and Chanbegue came upon the scene of occurrence and sent a report after making full enquiries from Range Setti and others.

Mr. Abdul Khalek, the Amildar of Chamarajanagar, hurried to the spot after the receipt of the Patel's report in the morning of 16th July last and investigated the case with the result that the prisoners were committed to this court for trial.

Rejected

Private Secy

3. The prisoners plead not guilty. They plead alibi.

(a) The prisoners Nos. 1, 2 and 4 plead that they went to Sailur village, Pollegal Taluk on 15th July 1919 which is 60 miles from Seringur, for the purpose of selling cocanuts and jack fruits, and that the case is concocted against them owing to enmity.

(b) The prisoner No. 3 pleads that he was sleeping in his Jola field on the night of the occurrence and that he is innocent.

(c) The prisoners Nos. 5, 9, 10, 11, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27, plead not guilty. They say that they are innocent and are purposely implicated in this matter. The prisoner No. 22 says that he was forced to take out a cloth owing to the pressure put on him by the Police. The prisoner No. 25 says that ~~he was not present at the scene of occurrence and that~~ he is unable to see any objects at night.

(d)

(d) The prisoners Nos. 6 and 7, plead that the 6th prisoner attended the Taluk Magistrate's Court on 15th July last at Chengalpattu and went to Sennur, Vellandur Taluk to see his elderly wife on that night and that the 7th prisoner was lying ill at home.

The 6th prisoner further says that there is enmity between Uppaligare and himself for cultivating a land which was being formerly cultivated by Uppaligare and that this case is the result of ill-will.

(e) The prisoners Nos. 8, 12, and 13, say that they were at Kannur Police Station, Sopinatty Palya Taluk, Coimbatore District, on the night of 15th July last, and that this case is concocted against them. The 8th prisoner further pleads that he took the lease of Ajjappa's garden and that in consequence there is ill-will between him and Gurusamy Nadar. The 12th prisoner says that there are two factions among Kuravaras in his village, that he belongs to Ahmed Sab's party, that he is unable to see objects at night and that he is falsely accused.

(f) The prisoners Nos. 14 and 16 plead that they were not in their village on 15th July last, that they were in the village of Achel, Hosakottai Taluk with a view to buy cattle on that date, that there are two factions in their village among Kuravaras and they have been implicated in this case at the instance of their enemies.

(g) The prisoner No. 15 pleads that he went to Anjanedi village, Sopinatti Palya Taluk, on 15th July 1919 and returned to his village on 17th July 1919, and that as he is the writer's son of 14th accused, he has been falsely accused. He further says that Abdul Kabi has given false evidence against

against him owing to previous litigation between them.

4. That Panna Lotty died from the effects of the fracture of the skull admits of no doubt whatever from the testimony of medical men and of prosecution witnesses nos. 2 to 5. 9. 10 and 13. This fact is not challenged.

The medical man who held the autopsy testifies to the presence of 20 contused wounds on the head, the shoulders, the back and to the facture of the skull of Panna Lotti into 9 pieces. He also testifies to the fact of Mr 6 Bangasetti receiving 4 contused wounds, one punctured wound and one skin deep wound, and to the fact of Lenjeeva receiving 12 wounds and of Gurubasava having five contused wounds.

He further deposes that Bango was under treatment from 10th July to 14th August 1919 and unable to attend to his daily work during the above period, and that he had still some stiffness in the right arm joint which had been fractured at its lower part of the lower third.

Lenjeeva was under treatment from 16th July to 11th August 1919 and he, according to medical opinion, was incapacitated for work during that period. Gurubasava was under treatment for a fortnight.

From this it is clear that grievous hurt was caused to Bango and Lenjeeva and only a simple hurt was caused to Gurubasava.

5. The primary questions for determination, therefore, are, first, whether the prosecution story is true in the main, and secondly, if true, which of the prisoner is guilty of the offences specified in the charges.

Regarding the first question, the prosecution relies,

first

first, on the testimony of Kaddumada (P. .11), Dutta (P. .12), Kiri (P. .13) and Abdul Kabi (P. .14), to prove conspiracy and to show that the prisoners armed with clubs, went towards Kempan thota on the night of the occurrence; secondly, on the testimony of prosecution witnesses Lecha Letti(P. .2), Lado Letti(P. .3), Liden Letti (P. .4), Lere Letti (P.W.5), Kenge Letti(P. .6), Suruhnaeva(P. .7), Ranjeeva (P. .8), to prove that the prisoners committed the offences complained of; and thirdly, on the evidence of prosecution witnesses Nos. 9 to 9, Abdul Kareem(P. .15), Ijjappa(P. .16), and Kadrecotti (P. .17) to prove the motive for the crime.

6. I shall first dispose of the question of motive for the crime.

Ijjappa says he is the owner of garden (S.No. 172) in Tudithittoo village. He says that his garden was originally leased to Suruhnaeva Lidda the father of Ranjeeva (P. .8) on a fixed rental of Rs. 120/- a year, and that about two years ago, the 1st and 8th prisoners raised the rent to Rs. 130/- a year and took the lease of the garden.

This fact is also admitted by the 8th prisoner. He says that this transaction gave rise to feelings of animosity between him and some of the prosecution witnesses.

Kadrecotti deposes that he had taken the lease of Kempathota for a period of 5 years, that in consequence of frequency of thefts in his garden, he has to transfer his rights to Kenga Letti (P. .6), and Lecha the brother of Suruhnaeva (P. .7), that the prisoners Nos. 1 and 8 competed with Kenga Letti and offered to pay Rs. 70/- a year as rent instead of Rs. 60/- each was agreed to be paid by Kenga Letti and that he refused to hand over lease the garden to them on the ground that he had already leased it to Kadrecotti.

He further says that thefts occurred in his garden

garden after the prisoners Nos. 1 and 8 took up the lease of the garden in the neighbourhood. The veracity of this witness is not challenged. He is corroborated by Ramgosotti and others.

Abdul Rasack is a Sub Contractor of Toddy shops at Sulipur. He deposes that on or about the 14th of July last, the 1st and 8th prisoners complained of theft in their garden.

His evidence is corroborated by the testimony of Ramgosotti who says that on the evening of 13th July, the prisoners Nos. 1 and 8 were abusing the thieves and that they suspected the lessees of Sembanthota to be the authors of the crime.

From this it appears that the prisoners Nos. 1 and 8 had strong reasons to hate the lessees of Sembanthota and their neighbours on account of frequency of thefts in their garden, and that the lessees of neighbouring gardens who were peaceably enjoying the produce of gardens at a moderately low rent, before the prisoners Nos. 1 and 8 competed with them, had equally strong motive to annoy and worry the prisoners Nos. 1 and 8 with a view to compel them to give up their tenancy of gardens situated to the east of Subramanyati river.

Thus the motive alleged by the prosecution is, I think, sufficiently proved.

7. Now I shall consider the evidence regarding the ~~xxxxxxx~~ conspiracy.

Abdul Kahi testifies in effect that prisoners Nos. 9 and 14 went for him after night-fall on 15th July last, that when he went to Seerikone he met the prisoners Nos. 8 and 14 and 4 others seated there; that they asked him to go with them to prevent thefts in their garden on the ground that they found against him in case of any theft in his garden, that he followed them

then and found prisoners nos. 2, 3, 10, 11, 13, 18, 19, 20, 21 and 22 near a wood apple tree a mile away from their village, that they were all armed with clubs, and that when he heard them conversing that the thieves who had committed frequent thefts, must be well punished, he got terrified and returned home.

There is nothing to indicate that he is a false witness He appears to have been fined Rs. 5/- on a conviction of for theft. Having regard to the fact that he is a Muhammadan and helping his fellow co-religionists and that he was a friend of other prisoners, it is probable that he must have been approached by the prisoners to help them in this affair. Saddhananda, Putt and Kumara say that their help was sought by the prisoners and after going with them to a certain distance, they went away. Their evidence show that the prisoners were seen armed with clubs going towards the scene of occurrence on the night of 15th July last.

6. Next, the direct evidence in the case has to be considered.

In this connection, it will help us to follow the evidence if we clearly analyse the offences alleged to have been committed by each set of the prisoners.

Broadly speaking, all the prisoners are indicted for rioting with the common object of wreaking vengeance on the inmates of Kempanthota and on those that came to their help by striking them and committing mischief to their garden.

This offence is alleged to have been committed at Kempanthota. Ranjit Lotti, Ranjeeva Lotti and Gurubarana deposed to so much of the facts narrated in para 2 supra as relate to what occurred in Kempanthota garden.

[illegible]

That they had injuries on their person is corroborated by medical evidence . They gave out the particulars to the Hotel and thereafter early morning of the 10th July last. They named the prisoners who were known to them by name. There is no valid reason to discredit their testimony in the main. As to who were all the rioters that were actually present on the scene , I shall discuss when dealing with the evidence adduced against each of the prisoners.

The prisoners Nos. 1, 3, 7, 10, 14, and 26 are indicted for grievous hurt caused to Ponna and Panjeeva and prisoners Nos. 8, 12, 13, and 27 are indicted for simple hurt caused to Gurubaseva. Each of these victims deposes to the fact of some of these prisoners causing wounds to him. This will be discussed in dealing with each prisoner's complicity in the crime.

As to the offence of murder of Ponna Hetti, Kachchetti, Vidan Hetti & , Lara Hetti and Pandacetti depose to all the facts that occurred at Ugurawatta Gola. These have been set out in full in para 2 supra and it is unnecessary to recapitulate them here.

There persons have no motive to swear falsely to take away the life of innocent persons. It is not shown that these are in any way connected with the disputes regarding the lessee of gardens in the neighbourhood of Ujjappu's Garden. I see, therefore, no valid reason to discard the testimony of these witnesses.

As to the common object of this unlawful assembly, it is proved beyond any reasonable doubt on their evidence.

D. I shall discuss the evidence adduced by the prisoners

As to the plea of alibi pleaded by prisoners Nos. 1, 2

and 4, the testimony of Lynvenne(P.W. .3), Fulton Sheriff (P.W. .5) and Substeramma Selva (P.W. .6) is relied on to prove that the prisoners were grazing cattle about a mile from Koilur in Kollegal Taluk on 10th July last, that these bullocks were impounded at the instance of Forest Guard Fulton Sheriff and that the prisoners paid one rupee to Lynvenne and got the bullocks released.

In the first place, the prisoners did not mention this incident in their elaborate statement filed by their lawyer before the Magistrate. In the second place no register is produced to show that the transaction referred to by Lynvenne was duly entered in that register.

Lynvenne appears to be a man of no substance. He gets a pay of Rs. 8/- a month. He admits that no official superior checks his register every day, that once in 2 or 3 months Taheildar goes to the village and initials the register, that there would be 2 or 3 entries in the register for a month and that remittance is made once a month to the Treasury.

These circumstances indicate that it is easy to make an entry at any time and grant a receipt ante-dating it.

Fulton Sheriff (P.W.5) is the relative of Thajee Abdul Khader (P.W. .4). He is the brother-in-law of 10th prisoner's uncle. Fulton Sheriff happened to be the Forest Guard at Koilur. It is curious to observe that his name does not appear in the first witness-list given by the prisoners. He is mentioned by them at the later stage. It appears to me that with the assistance of Fulton Sheriff who is interested in the prisoners, this defence is got up.

10. As to the alibi set up by 3rd prisoner, the evidence of Muthappa and Subbu who say that that prisoner was cleaning by their side in their field on the night of 15th July last, cannot be relied on.

Even if we believe them, their testimony is not inconsistent with the prosecution theory, for he might have gone and joined his comrades after his followers went to bed.

However, these witnesses have not impressed us as truthfull persons. It is easy to get up such evidence. I reject their testimony as being false.

11. The plea of alibi set up by the prisoners Nos. 8, 13, and 15 has completely been broken down.

The witnesses Nos. 7 and 8 (Peer Khan Sab and Syed Ibrahim) say distinctly that they did not see these prisoners at Kaanur Police station either on 15th July or at any time. Hence it is clear that they did not go to Kaanur, in Tolavadi Taluk, Coimbatore District on 15th July as stated by them.

12. Regarding the plea of alibi set up by prisoners Nos. 14 and 16, the evidence adduced to prove it seems to be a pure concoction.

Mohomed Sudan (D.W.1) is related to 14th accused and is the brother of 16th accused. As he is deeply interested in the prisoners, no weight can be attached to his testimony. Syed Ghouse Lahideen has, in my opinion, perjured with a view to save his kinsmen. On demand note Exhibit 15 seems to have been got up subsequently. That he has not admittedly entered this item of Rs. 20/- in his account book militates against his version. The attestors to Exhibit 15 are men residing in different villages.

Exhibit 14 a post card is produced to show that it was posted at Kankanhalli on 15th July and was received at Hollenal Post office on 17th July 1919. This was intended to prove that the 14th accused wrote it at Kankanhalli on 15th July and despatched to Mahomed Sudan Sab on that day from Kankanhalli and that the addressee received it on 17th July 1919 at Hollenal.

Mr. James Stewart Nelson Superintendent of Post offices who

who has been examined in this case as a Court witness, says that the impression made by date stamp Exhibit D.S.C. used to be alleged on 19th July 1913 differs from the impression made on exhibit L4, in that the distance from the figure 1 to the other figure 1, is slightly out and also figure 1 to 9 is out. The evidence tends to throw a suspicion upon the genuineness of the impression to be found in Exhibit L4.

He says that "it is not impossible for a clerk to prepare cards of any date for making impressions on any subsequent day". He further says that stamps are in the personal custody of the clerks who get a pay of Rs. 30 or 40, and that monthly change the types in the evening.

Having regard to the probabilities of the case and the interested testimony adduced, I must hold that the impressions of the cards on Exhibit L4 must have been made subsequent to 18th and 19th July last. Thus the plea of alibi set up by the prisoners is not proved.

These considerations lead me to accept the prosecution theory to be true.

13. Next, it is essential to consider the offences committed by each of the prisoners.

Since the use of force or violence is an essential ingredient of rioting it has been held, that a rioter cannot be separately convicted of causing hurt as well. (Kardit Singh (1911), P.L.R.101, 10 I.C.170).

But this view of the law is not applicable to a case where unlimited violence even to the causing of grievous hurt or death is used. All the courts are now unanimous in holding that a person may be guilty of rioting as well as causing hurt, and he may be so convicted if he has caused the hurt with his own hand.

(See Chandra Kant Chatterjee 17 Cal. 490, Sahur Mir,

16 C . 796, Perracat, 19 Cal. 195, Bano Punjo, 17 Bom.706(P.B) Perchad 7 All. 414 (...), Veeraarup 7 All . 767 (P.C.) (

There is divergence of views on the question whether in such a case other rioters may also be convicted of the double offence by operation of section 149, I.P.C. The answer to this question depends on the other questions viz, (1) the nature of the violence used and (2) whether all the rioters have foreseen it.

In the present case, the evidence shows, to my mind, clearly that all the rioters could not have foreseen the commission of grievous hurt and murder by some of the associates.

The actual associate must therefore be convicted of specific offences of grievous hurt and murder. This view appears to me to be clear from the fact that the causing of grievous hurt or murder cannot merely be described as "the use of force or violence" which is the essential ingredient of rioting. Limits of constructive liability prescribed under section 149, I.P.C. lend support to this view.

Mr. Gour on Penal Code at page 778 observes as follows:- " Now a person may join an unlawful assembly with an unlawful object; but it does not necessarily follow that he endorses all that the other members say or do. Nor is he therefore responsible for their acts of which he was not clearly cognisant" This view can well be maintained on authority. (See Sugan Koidya 10 Mad.483; Bhola Singh 29 All. 282; Krishna Rao 5 Bom.L.R.1073).

There is nothing to show that there was a common intention on the part of all the prisoners to inflict such injuries as were found on the person of Ganga Datti and Sanjeeva Malekar and also such injuries as could cause the death of Laxman Datti. In fact, the prisoners Nos. 2 to 13, 16 and 18 left their companions at Kempanhatti and went to punish the rioters, and in so doing in

injuries inflicted injuries on Lenna Lotti without any valid reason. The punish Lenna Lotti was certainly not the common intention of the rioters.

For these reasons I am clearly of opinion that all the rioters are not by virtue of section 149, I.P.C. liable for specific offences committed by individual assailants.

14. Now I shall consider the particular acts proved against each of the prisoners.

The prisoners Nos. 1 to 9, 11, 14, 15, 18, 24 and 26, were clearly identified by Lenna Lotti, Sanjeeva and Gurubasava as the rioters. Their evidence is corroborated by the fact that the prisoners Nos. 2 to 8, 15 and 18 were identified as the assailants of Lenna by Lacha Lotti and his brothers and his servant. As to identification, it is clear that the victim and witnesses could not have made any possible mistake.

It was a clear moon-lit night and the witnesses have known the prisoners from their infancy. They were near the scene of occurrence. Lachanna, his two brothers and his servant had ample opportunities of observing the assailants both at the time of striking Lenna Lotti and at the time of their passing in proximity to the place where they were standing.

They have given the names of prisoners Nos. 1 to 11 to the Patel and stated about 10 : 30 hrs had formed the unlawful assembly at the earliest opportunity. The witnesses identified them in a crowd of persons collected at the identification parades held thrice by the investigating officer. These named circumstances incline me to accept their testimony as to identification. The prisoner No. 10 is identified by prosecution witnesses Nos. 6 and 7. He is one of those that assaulted Lenna and Gurubasava. As to prisoner No. 11, he is identified by prosecution witness No 7 only. I am inclined to give him the benefit of doubt.

The prisoner No. 12 is identified by prosecution witnesses

evidence
Nos. 6 and 7. There is also ~~evidence~~ to prove that he was present at Nugurevere Kolla. Prisoners Nos. 10 and 17 are identified by prosecution witness No. 6 only. I am inclined to give them the benefit of doubt.

Prisoners Nos 10 and 20 have not been shown to have taken any part. They are identified by prosecution witnesses Nos. 7 and one of them by No. 6 also. They are not stated to have been present at Nugur Kolo. There seems to be a doubt as to ~~them~~ their presence at Kempinthota. I accordingly give them the benefit of doubt.

As to prisoners Nos. 21 and 22, they are identified by only one witness. Besides they have not been shown to have taken any part. There appears to be a doubt as to their being members of an unlawful assembly. They are given the benefit of doubt.

The prisoners Nos. 23, 25 and 27 have not been shown to have taken any part either at Kempinthota or at Nugur Kolo. They have not not been identified by all the victims. There is therefore a reasonable doubt as to their complicity in the crime. They are accordingly given the benefit of doubt.

The offence of rioting is, in my opinion, clearly proved against all the prisoners except Nos. 10, 16, 17, 19, 20, 21, 22, 23, 25, and 27.

16. As to grievous hurt, Kanja Setti swears that the prisoners Nos. 3, 7, 10 and 19 inflicted injuries on him. He is corroborated by Ranjeeva and Gurubareva. Ranjeeva swears that prisoners Nos. 2, 11, 14, and 26 struck him. There is no reason to distrust him.

I am of opinion that the prisoners Nos. 2, 3, 7, 10, 11, 14, 19 and 26 are guilty of the offence specified in the charge.

As to simple hurt caused to Gurubeeva, the prisoners Nos. 6, 17, 18, and 27 are charged under section 324. He swears that

prisoners

prisoners Nos. 9, 10, 12, 13, and 17 caused hurt to him. The presence of prisoners Nos. 12 and 17 and 27 at the scene of occurrence, is not clearly proved on charge above. I refrain from convicting them for hurt solely on the testimony of Kurubasava. The prisoner No. 19 + 17 is not charged with this offence. I am of opinion that prisoners Nos. 4, and 12 are guilty of hurt as well as of rioting.

16. The important question relating to the persons who are responsible for the murder of Lenna, has now to be considered.

Acha Setti, Pidda Setti, Hare Setti and Nagappa Setti distinctly assert that they saw the prisoners Nos. 9 to 8, 13 and 16 striking Lenna with clubs and that they did not know which of their blows fell on which part of his body. In fact they could not say who dealt the fatal blow. As to the complicity of prisoners Nos. 9, 12, 11 and 16, there is variation in the testimony of the witnesses. The presence of 8th prisoner is not spoken to by the 5th witness for the prosecution. The 4th and 5th witnesses do not implicate the 15th prisoner. Only the 4th prosecution witness says that the 11th prisoner was present at the scene. Only the 5th prosecution witness speaks to the presence of 16th prisoner at the scene.

As there is no clear evidence adduced against the prisoners Nos. 9, 11, 12, and 16, I am inclined to give them the benefit of doubt and acquit them of the charge of murder.

As to the complicity of prisoners Nos. 5 to 8, 12 and 15, I am inclined to believe that they took part in the beating of Lenna

It is clearly proved that these accused beat Lenna Setti the one an innocent victim and went to rescue Lenna Setti and others, with a view to prevent, that the blows of the stick were broken into 9 pieces, that he had in all 50 wounds on the head,

one Ramdhone and other parts of his body and that he died shortly after without regaining consciousness.

But the evidence does not even disclose which of the assailants caused which of the injuries.

The prisoners were all armed with clubs etc. Some letti were unarmed and defenceless. Several blows were inflicted completely crushing the skull, as is testified to by the prosecution witnesses and medical evidence corroborates this fact. The using of dangerous weapons in the manner in which they were in the present case leaves no room to doubt that the assailants intended to cause such bodily injury as is likely to cause death. They must have known that death would probably result, even if they had not fully intended to cause death.

The fourth clause of section 300, I.P.C. applies to the case and the prisoners Nos. 1 to 8, 12 and 13 are, in my judgment, guilty of murder. This case is similar to those reported as Emp. Vs. Prabhu, 38 All. 599; Emp. Vs. Hira Singh, 39 All. 806, and Emp. Vs. Ramtaran 35 All. 160.

17. Concurring with the 1st assessor and differing from the 2nd and 3rd assessors, I find the prisoners Nos. 1 to 11, 13 to 16, 18, 24 and 26 guilty of rioting armed with deadly weapons - an offence punishable under section 148, I.P.C. Each of them is sentenced to one year's rigorous imprisonment. I find the prisoners Nos. 12, 16, 17, 19, 20, 21, 22, 23, 25, and 27 not guilty. They are acquitted of the charges and directed to be released. I find the prisoners Nos. 2, 3, 7, 10, 11, 14, 15, and 26 guilty of causing grievous hurt - an offence punishable under section 325, I.P.C. Each of them is sentenced to two years' rigorous imprisonment.

The rest are acquitted of the charge under section 326, I.P.C.

I find the prisoners Nos. 5 and 15 guilty of culpable homicide not amounting to murder - an offence punishable under section 304, I.P.C. Each of them is sentenced to six months' rigorous imprisonment.

I find the prisoners Nos. 2 to 4 - (2) Kalu, (3) Ramrati, (4) Kanhe, (5) Bade, (6) Lutia Dhanva, (7) Kesar, (8) Bhola Bhil, (13) Bhagwan Kalu, and (14) Kanhu Kalu, guilty of murder. I find prisoners Nos. 9, 10, 11, 12 and 16 are not guilty of murder, and are accordingly acquitted of the charge of murder.

As there is absence of intention to murder and as the offence falls under clause 4 of section 300, I.P.C., the court sentences each of them to transportation for life.

All the sentences passed on the prisoners should run concurrently.

15. I shall accede to failing in duty by not to mention the good work done by Mr. Abdul during the trial of Ramsingh in the investigation of this complicated case of brutal murder. He has shown aptitude and independence in his investigation.

Articles Nos. 1 and 2 will be returned to prosecution witnesses Nanubhavsa and Kajeva by the District Magistrate and the other articles will be destroyed after the expiry of period for appeal.

Pronounced in open court.

Sd/ J. Jackson,

Sessions Judge.

17th June 1920.

Sessions,
17-6-1920.

"COPY"

SESSIONS JUDGE.

Date of application 18-6-1920.
Date when Copy was ready 22-6-1920
Date when Copy was delivered to applicant 23-6-1920

Witnesses cross-examined in the Case.

For Prosecution:-

1. Lokhmanna Rao.
2. Hari Lotti.
3. Linga Lotti.
4. Vidda Lotti.
5. Hari Lotti.
6. Manga Lotti.
7. Gurubeerva.
8. Ranjeeva.
9. Keeppadevanna.
10. Hanumanthia.
11. Yaddemadu.
12. Lutta.
13. Hari.
14. Abdul Wahi.
15. Abdul Khadr.
16. Ajjeppa.
17. Kadseetti.
18. Mr. Abdul Khalik.
19. Mr. Arthothara Rao
20. Abdul Khaliq.
21. Veerabhadrin.

For defence.-

1. Mahomed Kuddu Sah.
2. Syed Moore Mahaddeen.
3. Narayanna.
4. Khaja Abdul Kadar.
5. Sultan Sherif.
6. Venkatasubbarao Naik.
7. Peer Khan Sahib.
8. Syed Ibram.
9. Veeran Rao.

10. Lori Tribe.

11. Kuchepma.

12. Chibbo.

For Court:-

1. Mr. James Stewart Nelson.

II. Exhibits filed in the case:-

For Prosecution:-

P1. Sketch showing the scene of occurrence.

P2. Patel's report dated 16-7-1919.

P3. Deposition of Mr. Rapich Naidu before the Committing Magistrate on P. W.1.

P4. Deposition of Naidu before the Committing Magistrate on P. W.2.

P5. Statement of Pet accused before the Committing Magistrate.

P6. " 2nd " " "

P7. " 3rd " " "

P8. " 4th " " "

P9. " 5th " " "

P10. " 6th " " "

P11. " 7th " " "

P12. " 8th " " "

P13. " 9th " " "

P14. " 10th " " "

P15. " 11th " " "

P16. " 12th " " "

P17. " 13th " " "

P18. " 14th " " "

P19. " 15th " " "

P20. " 16th " " "

P21. " 17th " " "

P22. " 18th " " "

P23. " 19th " " "

P24. " 20th " " "

P25. Statement of Plot recorded before the Committing Magistrate.

P26. " 22nd " "

P27. " 23rd " "

P28. " 24th. " "

P29. " 25th " "

P30. " 26th " "

P31. " 27th " "

P32. Written statement of accused Nos. 1, 2 and 4 before the Committing Magistrate.

P33. Written statement of Accused No. 3 before the Committing Magistrate.

P34. Written statement of Accused Nos. 5, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24, 25, 26 and 27 before the Committing Magistrate.

P35. Written statement of Accused Nos. 6 and 7 before the Committing Magistrate.

P36. Written statement of accused Nos. 8, 15, 18 before the Committing Magistrate.

P37. Written statement of accused Nos. 16 and 18 before the Committing Magistrate.

P38. Written statement of 19th accused before the Committing Magistrate.

P39. Warrant issued to Kyrannos A.M.3 by the Magistrate to appear before this court on 21-8-1920.

P40. Note for fresh summons to the witnesses for defence presented by the accused for the accused. on 2-8-1920.

P41. A note book.

P42. A page of the book of date stamps of Kollonnawa Post Office bearing different date stamps.

P42a Date stamp dated 10-7-19 in exhibit P42.

P42b. Date stamp dated 17-7-1919 in exhibit P42

P42c. Date stamp dated 17-8-19 in exhibit P42

For Defence.

D1. Portions of deposition of Dutta P. 18 before the
D2. Committing Magistrate marked D. 1).

D3. Portion of deposition of Kiran P.W.17 before the Committing Magistrate marked D. 16.

24. ...port card dated 15-7-1919 addressed to Thodi Abdul ...hider ...ot of ...ollegal.

25. On demand pro-note dated 10-7-1919 executed by Mahomed ...eer in favour of ...yed Jouc ...chudeen

26. Original receipt dated 15-7-1919 at Cattle-pound, ...allur for having paid Re. 1/-.
issued

27. Notice ~~given~~ to Venkatarrama Naika by head Clerk of ...erect office ...ollegal.

28 Receipt for ...s. 8/- paid by Venkatarrama ...aika by to the ...ub Treasury at Kollegal.

29. Station House General Diary extract by ...eer Khan Head Constable of Talavadi dated 15-7-1919.

30. Entry in the order sheet on 15-7-1919 in ~~the~~ C.C. ...o. 812 of 1918-19 on the file of the second class Magistrate, Chamarajanagar.

31. A ...ote of the house of date stamp of Venkatachalli ...ost office bearing different date stamps.

III. Articles produced in the case.-

Marked-

1. One glue bordered handle (Art.No.I before Com: Ponte).

2. (mother)-cache. (Article No.IV before Com:Ponte)

3. Coconnut fibre.(Art. No. III in Lower court.)

4. A bamboo stick. (Art. No.VI ")

Not marked.-

I. Coconuts.

II. Coconut bunches.

VII. A ...ngoti.

Grounds of Appeal as drafted by

Mr: Hoover

1. The Conduct of P.Ws 2, 3, 4 & 5 Shows that the prosecution Story is false
2. Patel is an interested witness and his evidence is incredible
3. There was no ill-feeling between the deceased and the assailants.
4. That there was reason for the Bandicuttoo people to hate, and bring about the ruin of the Muhamedans of Saqur Mole.
5. Parivaro and Teppaligaro had quarrels between themselves.
6. P.Ws 11, 12, 13 & 14 Cannot be believed.
7. It is highly probable that Strangers unacquainted with the gardens on the Western side attacked P.Ws 6, 7 & 8.
8. The Patels Conduct indicates that the Case for the prosecution has been Conducted.
9. Evidence put in our behalf of appellants 1. 2. 4. 14 & 16. has been wrongly rejected.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat
( )
, *the* *191*

Date of issue 5/4/21

Signed by Mr. D.M.

Section 05
File No. 195-20.
Serial No. 2

No. G/1869

To

The Registrar, Chief Court

Sir,

I am directed to request you to be so good as to request, to forward the records of the Mysore Sessions Case No 13 of 19-20 in which Kala and 8 others were sentenced to transportation for life on a charge of murder and which

over.

sentence was confirmed
by the Civil Court in
Criminal appeal no. 14 20-21

Dhaneela

D. 28/3

for Registrar

Ess
28/3/21
pm 28/3

List of enclosures.

Copied by

Examined by

To No. 950 Cr. dt 22.4.21

22/99

Cts 195-20-3

GEN & REV. SECTT. 23 APR 1921

Chief Court of Mysore,
Bangalore, 19th April 1921.

From

G. Sreenivasa Iyer, Esq., B.A.M.L.,
Registrar of the Chief Court of Mysore,
B a n g a l o r e.

69453

To

B. Ramaswamiah, Esq., B.A.,B.L.,
Secretary to Government,
Revenue Department, Bangalore.

S i r,

Adverting to your letter No.G.18619/Cts.195-20-2 dated the 5th April 1921, I am directed to forward herewith the entire records in Mysore Sessions Case No.13 of 1919 on the file of the Sessions Judge of Mysore Division and those in Criminal Appeal No.1 of 1920-21 on the file of this court and to request that they may kindly be returned when no longer required.

I have the honor to be,
S i r,
Your most obedient servant,

G Sreenivasa Iyer

REGISTRAR.

TMN/

G. R S. VI—S-III/33]

DRAFT.

SUBJECT .....

.....

.....

Section. C5
File No. 195. 20
Serial No. 4

No. J. 69 (1) & Records

Diary No. of letter replied to 2499

To

The Registrar of the Chief
Court of Mysore.

GENERAL AND REVENUE SECRETARIAT,

( )

the .....*191* .

Date of issue 6/7

Signed by .....

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the ~~prisoner~~ convicts nos 6312-20 Kala and 8 others undergoing sentence of transportation for life in the Bangalore central Jail, copy of order passed by H. H. the Maharaja of Mysore, on the ~~prisoner's~~ convicts' memorials received with letter no 468/30-4 dt 22-3-1921 from the S. Sy Persons

2. The entire records received with your letter No. 950/9 dated 19th April 1921 ~~191~~ are herewith returned.

I have, etc.,

Secretary to Govt

Rec'd 7/7

Rec'd 7/7

Copy to the Sy of Persons for information

Rec'd

G. R. S. VII—S-III/34]

28 ryts

In the Matter of & Memorials

Of Convicts Nos 6312-20, Kala and eight others, of the Bangalore central Jail undergoing the sentence of transportation for life as per sentence of the Mysore Sessions Judge in Mysore Sessions case no 13 of 19-20

His Highness the Maharaja

has been pleased to

Commute the sentence of transportation to one of rigorous imprisonment for a period of seven years in all the above cases.

3.7.21

D.M. 7/7

Draft.

Dewan.

WD 02264—GPB—500—5-2-17